

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (CINCINNATI)**

**Teresa R. Robinson
Administrator of the Estate of
Carl Tackett, Deceased,**

Plaintiff,

vs.

M & M Cartage Company, Inc., *et al.*,

Defendants.

) **Case No. 1:18-CV-220-MRB**

) **Judge Michael R. Barrett**

) **Magistrate Judge Karen L. Litkovitz**

) **ORDER APPOINTING ESTATE**

) **REPRESENTATIVE AND GRANTING**

) **JOINT MOTION TO APPROVE**

) **SETTLEMENT**

)

The matter came before this court on the Plaintiff and Defendants' joint motion to approve settlement. This Court conducted a conference on April 24, 2019 with the parties to entertain discussion on the law and issues in this case. Based upon the evidence, discussion and law, this Court makes the following findings:

1. On November 8, 2017, Ms. Robinson was appointed the representative of Mr. Tackett's estate in Mingo County, West Virginia. *See* Affidavit of Executrix Pursuant to West Virginia Code §44-1-13 attached as Exhibit A. After being appointed as Executrix, Mr. Robinson filed the action before this Court pursuant to Ohio's wrongful death statute, O.R.C. 2125.02(A)(1).

2. Subject to this Court's approval, the parties have recently reached an agreement. Plaintiff and Defendants jointly drafted the proposed Settlement Agreement, attached hereto as Exhibit B. The settlement funds will be disbursed as follows:

Gross Settlement:	\$1,800,000.00
Attorney Fee:	\$600,000.00

Attorney Costs:	\$39,574.45
Protected Fees:	\$23,386.35
Net to Melissa Tackett:	\$857,440.67
Net to Cody Tackett:	\$279,598.53

The Court has reviewed the terms of the settlement with counsel and finds that the settlement is a good faith settlement, made in the best interest of all parties.

3. Pursuant to R.C. 2125.02 (C), “[a] personal representative appointed in this state, with the consent of the court making the appointment and at any time before or after the commencement of a civil action for wrongful death, may settle with the defendant the amount to be paid”.

4. Ms. Robinson was appointed the personal representative of the Estate of Carl Tackett in Mingo County, West Virginia Court. However, West Virginia law does not have a procedural mechanism under which to seek permission from the Mingo County Court to enter into a settlement. In addition, counsel for Defendant contacted the Mingo County Court and requested a conference for the purpose of obtaining consent to enter into a settlement. Unfortunately, the Mingo County Court refused to grant a conference because West Virginia law does not give that court authority consent or approve settlements. Rather, the Court only rules on distribution of settlement proceeds.


5. Reconciling West Virginia law and O.R.C. 2125.02 (C), this Court hereby gives full faith and credit to, and recognizes West Virginia’s appointment of Ms. Robinson as the personal representative of the Estate of Carl Tackett. Moreover, this Court hereby and likewise appoints Teresa R. Robinson as the Administrator for the Estate of Carl Tackett, for the limited purpose of entering into a settlement agreement in this case.

6. This Court authorizes Ms. Tackett, as the personal representative of the Estate of Carl Tackett, to enter into (i.e. execute) the proposed Settlement Agreement with the Defendants in this case.

7. This Court approves the distribution of the settlement funds as indicated above.

For the reasons described below, and for good cause shown, it is hereby ORDERED, ADJUDGED and DECREED that Plaintiff and Defendants' joint motion to approve settlement is well-taken and granted.

IT IS SO ORDERED.


Magistrate Judge Karen L. Litkovitz

Respectfully submitted,

/s/ Michael Jay Leizerman email approval 5/21/19

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